IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Lala Ram. Versus Rajasthan State Road Transport Corporation & ors.

S.B. Civil Writ Petition No. 145/2007

...

Date of Order: April 02, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. I.R. Choudhary, for the petitioner.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks quashing of the charge-sheet Annx.3 dated 23-6-2004 and the orders Annx.4 dated 25-7-2005 and Annx.5 dated 12-10-2006 and to reinstate him in service with all consequential benefits.

I have heard learned counsel for the petitioner.

Learned counsel for the petitioner submits that the petitioner earlier filed a suit, being Civil Suit No. 433/1988 (995/1986), before the Additional Munsif & Judicial Magistrate No.3, Jaipur, which came to be decided by the judgment and decree dated 29-4-1989 (Annx.1), by which the termination order dated 29-10-1988 passed by the respondents was

declared illegal and the petitioner was held to be continued on the post of Bus Conductor. Thereafter the respondents, by the orders Annx.3 dated 23-6-2004, Annx.4 dated 25-7-2005 and Annx.5 dated 12-10-2006, issued the charge sheet, held the inquiry and the Enquiry Officer found that the delinquency against the petitioner stood proved and consequently his services have been terminated. Learned counsel for the petitioner submits that the respondents fell in error in delaying the inquiry for the period of the years 1986, 1989, 1991, 1992, 1993, 1994, 1999, 2000 and 2004.

By the judgment and decree Annx.1 dated 29-4-1989, the learned Additional Munsif cum Judicial Magistrate No.3, Jaipur quashed the termination order dated 29-10-1986 on the ground that the petitioner was not afforded an opportunity of hearing, but in the subsequent inquiry, it was always open for the respondent-employer to hold a fresh inquiry by affording proper and reasonable opportunity of hearing to the petitioner for the subsequent charge-sheet(s) framed and issued. In the reply, the petitioner admitted the charges levelled against him, which is evident from the orders Annx.4 dated 25-7-2005 and Annx.5 dated 12-10-2006. On being asked to the learned counsel for the petitioner whether the petitioner admitted his guilt in the charges, the counsel failed to controvert the same. Thus, it is clear that the petitioner accepted the charges levelled

against him in his reply and thus, the charges stand proved against the petitioner. The charges are of very serious nature.

The Hon'ble Supreme Court, in Karnataka State Road Transport Corporation Vs. B.S. Hullikatti, (2001) 2 SCC 574, held as under:-

> "In such cases where the bus conductors carry passengers without ticket or issue tickets at a less rate than the proper rate, the said acts would inter alia amount to either being a case of dishonesty or of gross negligence and such conductors were not fit to be retained in service because such inaction or action on the part of the conductors results in financial loss to the Road Transport Corporation. This Court was firmly of the opinion that in cases like the present, orders of dismissal should not be set aside."

Reiterating the same view, the Hon'ble Supreme Court, in Regional Manager, R.S.R.T.C. Vs. Ghanshyam Sharma, JT 2001 (10) SC 12, held as under:-

> "Though under Section 11(A) the Labour Court has jurisdiction and powers to interfere with the quantum of punishment, however, the discretion has to be used judiciously. When the main duty or function of the Conductor is to issue tickets and collect fare and then deposit the same with the Road Transport Corporation and when a conductor fails to do so, then it will be misplaced sympathy to order his reinstatement instead of dismissal."

Keeping in view the serious charges against the petitioner and the decisions of the Hon'ble Supreme Court, in my view, when the charges have been proved on being admitted/accepted by the petitioner, the respondents were

justified in imposing the punishment of dismissal from services upon the petitioner vide Annx.4 dated 25-7-2005 and the Appellate Authority was justified in dismissing his appeal vide order Annx.5 dated 12-10-2006. No case for interference in the impugned orders is made out.

In the result, the writ petition lacks merit and it is dismissed accordingly. There shall be no order as to costs.

(H.R. PANWAR), J.

mcs